

F. GTEC and Robak desire that the Construction Agreement remain and continue in effect, but further desire that the Construction Agreement be amended, ratified and confirmed as herein provided.

NOW, THEREFORE, the parties agree as follows:

1. The thirty (30) day period within which Robak must commence construction of the System referred to in paragraph 11 of the Construction Agreement shall commence when GTEC furnishes Robak with notice to proceed with construction, which notification shall not be given until such time as GTEC has received a notice to proceed with construction from the City's Director of Public Services pursuant to Article 6B of that certain franchise agreement between GTEC and the City dated February 19, 1987, which by this reference is incorporated herein.

2. The Force Majeure provision of paragraph 14 of the Construction Agreement applies to any restraining order, injunction or other order by the FCC or a court of competent jurisdiction ("Restraining Order") which results in a delay in construction of the System by Robak.

3. In the event that such a Restraining Order is issued, the parties further agree that:

(a) For the initial thirty (30) days of the period during which the Restraining Order is in effect and subject to the provisions contained herein regarding the termination of the Restraining Order, GTEC shall pay to Robak the sum of \$13,300.00 per business day up to a maximum of \$279,300.00 for twenty-one (21) business days, payable at the end of the initial thirty (30)

day period. Upon receipt of notice from GTEC that the Restraining Order has been terminated, payments from GTEC shall terminate the day after Robak receives such notice and Robak shall renew construction the next business day (the second business day following receipt of notice that the Restraining Order had been terminated). Upon receipt of notice ("notice to reduce crews") from GTEC that the duration of the Restraining Order will apparently exceed ten (10) business days, Robak will immediately exercise its best efforts to reduce and lay off as many of its crews as soon as reasonably possible and to expeditiously terminate as many as it can of its agreements for the rental of equipment utilized solely for the construction of the System. In the event GTEC provides Robak with the notice to reduce crews, payments from GTEC shall terminate on the fifth day following GTEC's notification to Robak that the Restraining Order has been terminated and Robak shall renew construction not later than the expiration of that five-day period. Any cash rebates or other cash returns realized by Robak from the reduction of its crews and/or the termination of any equipment rental agreements ("cash returns") will be credited against the sum to be paid by GTEC. At the end of the initial thirty (30) day period, Robak must furnish GTEC with an accounting of all such cash returns and the sum of such cash returns shall be immediately paid by Robak to GTEC.

(b) Not less than ten (10) business days prior to the expiration of the initial thirty (30) day period, GTEC shall notify Robak whether GTEC is willing to pay to Robak the sum of \$7,600.00 per business day for a second thirty (30) day period up

to a maximum of \$159,600.00 for twenty-one (21) business days to reimburse Robak for continuing obligations under the Construction Agreement, payable at the end of the second thirty (30) day period. In the event that GTEC does not notify Robak of its election regarding the second thirty (30) day period within the ten (10) business days specified, the obligation of GTEC to pay the sum of \$7,600.00 per business day for a second thirty (30) day period shall become fixed subject only to the provisions contained herein regarding the termination of the Restraining Order. If the second thirty (30) day period is in effect, payments from GTEC shall terminate on the tenth (10th) day following receipt of notice from GTEC that the Restraining Order has been terminated and Robak shall renew construction not later than the expiration of said ten (10) day period. If GTEC elects to pay to Robak the sum of \$7,600.00 per business day, any cash returns realized by Robak during the second thirty (30) day period will be credited against the sum to be paid by GTEC. At the end of the second thirty (30) day period, Robak must furnish GTEC with an accounting of all such cash returns and the sum of such cash returns shall be immediately paid by Robak to GTEC.

4. Paragraph 1 of Exhibit "B" of the Construction Agreement is hereby deleted in its entirety and the following shall be substituted therefor:

1. Street Trenching
Trench in asphalt streets, 6" wide, at the depth indicated below, place CATV conduit, push CATV cable, set CATV pedestal/vaults, back fill with four-sack slurry and repave with 2" asphalt cap,

splice CATV cable and balance CATV system.

Price at 12" depth - \$4.73 per foot;
Price at 24" depth - \$7.53 per foot
(placing other conduit up to 3" concurrent with CATV conduit, add \$.50 per foot) (pushing other cable up to 3" concurrent with CATV conduit, add \$.50 per foot)

5. Paragraph 2 of Exhibit "B" of the Construction Agreement shall be amended to add the following provisions:

Boring (Crossing Under Railroad Rights Of Way)

For each bore needed to cross under a railroad right of way, Owner shall pay Contractor its in-place costs of \$6,025.00, which in-place costs shall include the following services and expenses:

- a. \$2,040.00 - Contractor's cost of hiring a boring subcontractor.
- b. \$1,735.00 - Contractor's cost for (i) supervising the boring subcontractor, (ii) providing all equipment required for cutting asphalt, backfilling and asphalt covering, (iii) obtaining and paying for all permits associated with the boring, and (iv) Contractor's 10 percent handling fee.
- c. \$450.00 - Cost of insurance required by railroad company.
- d. \$300.00 - Cost of inspection required by railroad company.
- e. \$1,500.00 - Cost of shoring and fencing of two (2) boring pits.

6. Exhibit "B" of the Construction Agreement shall be further amended to add the following provisions:

10. Manhole Construction

Owner shall specify the type, size and location of five (5) manholes, which

shall be placed by Contractor.
Contractor shall be paid based on Contractor's in-place costs, with total costs not to exceed \$16,000 per manhole. Contractor shall bill Owner upon completion of construction. The bill shall include an itemized statement of in-place costs per manhole, excluding the costs of any materials provided by Owner. Selection of the contractor for construction of the remainder of the necessary manholes will be determined based on a comparison of current industry average costs for the placement of manholes in the City of Cerritos and a reasonable quote from Contractor.

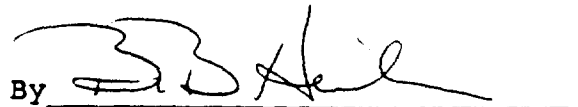
11. Backhoe Construction

For any trenching undertaken by Contractor utilizing backhoe construction to connect the five (5) manholes referenced in paragraph 10, Contractor shall be paid based on Contractor's cost not to exceed \$45.00 per trench foot. The per-trench-foot cost shall include, but not be limited to, any backfilling, slurry, cap and resurfacing necessitated by the trenching. Contractor shall bill Owner weekly for trenching. The bill shall include an itemized statement of in-place costs, excluding the costs of any materials provided by Owner, identifying the number of trench feet and the number and size of ducts per trench foot. To the extent applicable, Contractor's itemization of in-place costs shall be based on the costs identified hereinabove in Exhibit "B."

7. The Construction Agreement, as amended, shall in all respects remain in full force and effect without modification or revision except to the extent and in the manner herein specifically provided.

IN WITNESS WHEREOF, the parties hereto have executed
this Agreement as of the day and year first written above.

GTE California Incorporated

By 


Attest:


KENNETH K. OKEL
Assistant Secretary

T. L. Robak, Inc.

By 

Attest:


Corporate Secretary

MAINTENANCE AGREEMENT

This Maintenance Agreement is entered into as of the 22nd day of January, 1987, between General Telephone Company of California ("Owner") and Apollo Cablevision, Inc. ("Apollo").

Recitals

This Maintenance Agreement is entered into with reference to the following agreed facts:

A. Owner and T. L. Robak, Inc., Apollo's parent corporation, have entered into negotiations for the construction of an underground electrical signal transmission facility (the "System") to be constructed in the City of Cerritos, California. A portion of the System (the "Coaxial Facilities") has been designed to transmit cable television ("CATV") signals to Apollo's customers in the City of Cerritos via coaxial cable.

B. The purpose of this Maintenance Agreement is to set forth the terms and conditions under which Apollo will maintain and repair the head-end and coaxial cable portion of the System for the Owner.

NOW, THEREFORE, the parties hereto do hereby agree as follows:

1. The Coaxial Facilities Capacity. Under a certain Lease Agreement between Owner and Apollo dated the 22nd day of January, 1987, and by this reference incorporated herein, the Owner agrees to lease and Apollo agrees to rent from the Owner 275 MHz of bandwidth capacity for the use of Apollo in providing CATV service in the City of Cerritos.

2. Maintenance and Repair of Coaxial Facilities. The parties agree that the Coaxial Facilities used by Owner to provide bandwidth capacity to Apollo require certain routine items of repair and maintenance. Attached hereto as Exhibit "A" and by this reference incorporated herein is a schedule of the agreed elements of routine repair and maintenance for which Apollo shall be responsible at its own expense for the entire term of this Maintenance Agreement. Any items of repair or maintenance to said Coaxial Facilities other than those specified on Exhibit "A" ("extraordinary repair") shall be performed by Apollo but the cost of such extraordinary repair shall be borne by the Owner and billed to the Owner by Apollo.

3. Maintenance of the Remainder of the System. The parties agree that any repair or maintenance to the remainder of the System other than those Coaxial Facilities used to transmit CATV signals ("additional maintenance") shall be the responsibility of the Owner. In the event the Owner requests Apollo to perform such additional maintenance, Apollo agrees to do so, provided however: (i) Apollo is capable of performing the requested additional maintenance; and (ii) the terms of payment for such additional maintenance shall be pursuant to such terms as subsequently are agreed to by the parties.

4. Risk of Loss; Insurance; and Indemnity. Subject to the requirement to maintain and repair the Coaxial Facilities as set forth in paragraph 2, the parties agree that all risk of loss or damage to the System (including the Coaxial Facilities) shall be borne by the Owner. Apollo shall, however, furnish the Owner

with general and public liability insurance in amounts not less than \$2,000,000.00 for any one person, and \$2,000,000.00 per occurrence; property damage liability insurance of not less than \$2,000,000.00; and liability insurance to indemnify and hold Owner harmless from any loss, claim, liability or demand, including attorneys' fees, arising out of Apollo's maintenance of the Coaxial Facilities. Apollo shall provide Owner with certificates of said insurance naming Owner as loss payee as its interest may appear as to each of the foregoing insurance policies. The certificates shall further state that Owner shall be given at least thirty (30) days prior written notice of any proposed cancellation of said policies. Apollo shall also maintain workers' compensation insurance covering its employees as required by law for all work performed on the System, including the Coaxial Facilities pursuant to this Agreement. In addition to the foregoing insurance contract obligations of Apollo, Apollo agrees that it shall indemnify and hold Owner harmless from any and all liability, claims and demands whatsoever, including attorneys' fees, as a result of the negligence or other wrongdoing on the part of any employee, agent, servant or representative of Apollo, in connection with the maintenance work performed by Apollo on the System.

5. Assignment. The parties agree that, subject to the provisions of the Franchise Agreement between Owner and the City of Cerritos, the Owner may assign all or any part of its right, title and interest in and to the System (including the Coaxial Facilities). In such event, all the provisions of this

Maintenance Agreement for the benefit of the Owner shall inure to the benefit of and may be exercised by or on behalf of the successor in interest of the Owner.

6. Apollo's Default. Time is of the essence under this Agreement and any of the following events shall constitute default on the part of Apollo hereunder:

(a) Any breach or failure of Apollo to observe or perform any of its other obligations hereunder and the continuance of such default for seven (7) days after notice in writing to Apollo of the existence of such default;

(b) The insolvency or bankruptcy of Apollo or the making by Apollo of an assignment for the benefit of creditors, or the consent of Apollo to the appointment of a Trustee or Receiver, or the appointment without its consent of a Trustee or Receiver for Apollo or for a substantial part of its property;

(c) The institution by or against Apollo of bankruptcy, reorganization, arrangement, or insolvency proceedings;

(d) The termination of the CATV Contract between Apollo and the City of Cerritos, California; or

(e) Apollo's failure to maintain System signal quality to approved levels as specified in the Franchise Agreement between Owner and the City of Cerritos and by this reference incorporated herein.

7. Remedies. Upon the occurrence of any default by Apollo as specified in paragraph 6, the Owner may, at its option:

(a) Declare this Maintenance Agreement in default and thereupon terminated.

(b) If Apollo breaches this Maintenance Agreement and ceases to perform and discharge its obligations before the end of the maintenance term, or if Apollo's right to perform maintenance is terminated by Owner because of Apollo's breach of this Maintenance Agreement, this Maintenance Agreement, at the option of Owner, shall terminate. On such termination, Owner may recover from Apollo any amount necessary to compensate Owner for all the detriment proximately caused by Apollo's failure to perform its obligations under this Maintenance Agreement, or which in the ordinary course of things would be likely to result therefrom.

(c) Efforts by Owner to mitigate the damages caused by Apollo's breach of this Maintenance Agreement do not waive Owner's right to recover damages under this article.

(d) Even though Apollo has breached this Maintenance Agreement, this Maintenance Agreement continues in effect so long as Owner does not terminate Apollo's right to perform maintenance; and Owner may enforce all its rights and remedies under this Maintenance Agreement, including the right to recover the costs of maintenance as it becomes due under this Maintenance Agreement.

8. Owner's Right of Participation. Owner reserves the right to observe, inspect and participate in the routine repair and maintenance of the Coaxial Facilities to enhance Owner's familiarity with the routine repair and maintenance of Coaxial

Facilities so long as Owner does not interfere with Apollo's ability to discharge its obligations under this Maintenance Agreement.

9. Term. This Maintenance Agreement shall commence as of the date indicated above and shall continue for a period of five (5) years from the date Apollo receives the written notice of the availability of said bandwidth capacity (as set forth in paragraph 16 of that certain Construction Agreement between the Owner and T. L. Robak, Inc., dated the 22nd day of January, 1987, and by this reference incorporated herein). Any extension of this Maintenance Agreement shall be subject to further negotiations of the parties.

10. Invalid Provision. Any provision of this Agreement found to be prohibited by law shall be ineffective to the extent of such prohibition without invalidating the rest of this Agreement.

11. Construction. The validity, construction and enforcement of this Agreement shall be governed by the laws of the State of California.

12. Complete Agreement. This Agreement and the exhibit attached hereto contain the entire understanding of the parties, and such understanding may not be modified or terminated except in writing signed by the parties.

13. Waiver of Default; Recovery of Costs of Suit. A waiver of default by Owner shall not be a waiver of any other or subsequent default. In the event either party hereto initiates an appropriate legal action to enforce the terms and provisions of

this Maintenance Agreement, the prevailing party in such action may recover its costs of suit, including reasonable attorneys' fees.

14. System Evolution. In the event that the Coaxial Facilities are no longer required for the transmission of electrical signals, Owner reserves the right to terminate this Maintenance Agreement without penalty and at Owner's option to enter into a new maintenance agreement with Apollo to repair and maintain any replacement system. If pursuant to this paragraph Owner exercises its right to terminate this Maintenance Agreement prior to the expiration of the term of this Maintenance Agreement as specified in paragraph 9, the undepreciated value of any equipment purchased by Apollo for the maintenance of the System that cannot be used in the repair and maintenance of any replacement system shall be recoverable from Owner.

IN WITNESS WHEREOF, this Maintenance Agreement is executed on the day and year indicated below.

OWNER

GENERAL TELEPHONE COMPANY
OF CALIFORNIA

By 

Date 1/22/87

Attest:


Assistant Secretary

APOLLO CABLEVISION, INC.

By Tom Roland
Date 1/22/87

Attest:

Roger H. Bishop
Corporate Secretary

EXHIBIT "A"

TO THE MAINTENANCE AGREEMENT
OF THE COAXIAL FACILITIES,
CERRITOS, CALIFORNIA

Routine Repair and Maintenance of the
CATV Portion of the System

[Describe the required routine repair and maintenance of the CATV
portion of the System]

AMENDMENT NO. 1 TO THE MAINTENANCE AGREEMENT
BETWEEN GTE CALIFORNIA INCORPORATED
AND APOLLO CABLEVISION, INC.

This Amendment No. 1 to the Maintenance Agreement is entered into as of May 3, 1991 between GTE California Incorporated, formerly General Telephone Company of California ("GTEC" or "Owner"), and Apollo CableVision, Inc. ("Apollo").

RECITALS

This Agreement is entered into with reference to the following agreed facts:

A. Apollo entered into a Maintenance Agreement with GTEC dated January 22, 1987. All references to the "Maintenance Agreement" shall hereinafter refer to the January 22, 1987 document, which specifies the terms and conditions under which Apollo shall maintain and repair the head-end and coaxial cable portion of the underground electrical signal transmission facility (the "System") in the City of Cerritos, California ("City") for GTEC.

B. The purpose of Amendment No. 1 is to define the demarcation point between equipment owned by GTEC and that owned by Apollo, to clarify the elements of the CATV network to be maintained, to add customer premises equipment and wiring as items to be maintained by Apollo under the Agreement, to specify maintenance intervals, to list the items of test equipment required to adequately maintain the System including test equipment, and to redefine "extra-

ordinary repair" under the Agreement. In addition, this Amendment No. 1 shall add a new provision titled "Monthly Compensation", stating the manner in which the agreed upon monthly compensation shall be identified and paid or credited to Apollo by GTEC.

C. Owner and Apollo have completed the construction of the System in the City of Cerritos, California. Of the total available 550 MHz CATV System, GTEC has leased 275 MHz of bandwidth to Apollo in order that Apollo may transmit cable television ("CATV") signals to Apollo's customers in the City of Cerritos via coaxial cable. The Owner is leasing the remaining 275 MHz of bandwidth to GTE Service Corporation ("GTESC").

D. This Amendment to the Maintenance Agreement sets forth changes in the terms and conditions under which Apollo shall maintain and repair the entire 550 MHz CATV System, which consists of the head-end, coaxial distribution system including "drops", decoder/converter boxes, remote control units, Telephone Interface Modules ("TIMs") and inside (customer premises) wiring for the Owner.

NOW, THEREFORE, the parties hereby agree that paragraphs 1 and 2 of the Maintenance Agreement and Exhibit A attached thereto shall be changed as set forth below:

1. Paragraph 1 of the Maintenance Agreement is hereby modified to read as follows:

The Coaxial Facilities Capacity. Under a certain Lease Agreement between Owner and Apollo dated the

22nd day of January, 1987, as subsequently amended, the Owner agreed to lease, and Apollo agreed to rent from the Owner, 275 MHz of bandwidth capacity for the use of Apollo in providing CATV service in the City of Cerritos. In a similar Lease Agreement, the remaining 275 MHz of bandwidth of the 550 MHz CATV System is leased by Owner to GTE Service Corporation ("GTESC").

2. Paragraph 2 of the Maintenance Agreement is hereby modified to read as follows:

Maintenance and Repair of the 550 MHz CATV System.

The parties agree that the repair, replacement and maintenance of the System is the responsibility of the Owner. However, pursuant to the terms of this Maintenance Agreement, Apollo agrees to maintain, replace and repair the coaxial facilities portion of the System, which includes all head-end equipment beginning at the demarcation point at the input of the decombining/power dividers associated with the satellite equipment. This head-end equipment includes the entire 550 MHz broadcast bandwidth system and modulation-demodulation equipment. In addition, Apollo agrees to maintain the entire 550 MHz CATV System. Apollo agrees to provide all labor and materials (except for individual items of equipment the cost of which is in excess of \$300.00 and

decoder/converter boxes) required to maintain the 550 MHz CATV System including the periodic routine maintenance specified in Exhibit "A", which is attached hereto and incorporated herein by this reference, and repair or replace individual items of equipment other than decoder/converter boxes up to and including \$300.00 for each item at no additional cost to the Owner.

"Extraordinary Repair" is defined as: (i) those material costs in excess of \$300.00 to repair or replace any single item of the aforementioned equipment other than decoder/converter boxes (as estimated or determined by the manufacturer or a reputable repair shop); (ii) the replacement of decoder/converter boxes; or (iii) labor and materials for repair, replacement or maintenance of the 550 MHz CATV System required by the occurrence of a catastrophic or natural disaster.

"Extraordinary Repair" costs do not include Apollo's labor for the performance of the periodic routine maintenance specified in Exhibit "A" or to remove and reinstall equipment that is not part of catastrophic or natural disaster repair or maintenance since Apollo's routine labor costs are included in the terms of this Amendment.

"Extraordinary Repair" costs must be approved by

the Owner before the costs are incurred. Apollo will invoice the Owner and the Owner will reimburse Apollo the entire amount of such preapproved "Extraordinary Repair" costs.

GTEC has purchased and will retain title to the test equipment listed in Exhibit A. The individual items to be purchased after execution of this Amendment are denoted by an asterisk. One-half (1/2) of the cost of the test equipment to be purchased will be billed to Apollo on a monthly basis.

3. The parties agree to the following new provision:

Monthly Compensation. The monthly compensation Owner is to pay Apollo for maintenance of the System and facilities identified in paragraph 2 shall be \$35,000.00. Owner shall pay this amount monthly to Apollo beginning on the date this Amendment No. 1 to Maintenance Agreement is signed. At the end of each year of this five (5) year Agreement the monthly amount of \$35,000.00 will be adjusted based upon the Consumer Price Index ("CPI") as defined by the State of California, Department of Finance.

One-half (\$17,500.00) of the \$35,000.00 monthly cost to maintain and repair the 550 MHz CATV System identified in paragraph 2 of this Amendment will be billed to Apollo monthly. In years two (2) through

five (5) of this five (5) year agreement beginning in May, 1992, one-half of the CPI adjusted cost to maintain the 550 MHz CATV System will be billed to Apollo on a monthly basis.

4. Except as modified herein, the Maintenance Agreement shall in all respects remain in full force and effect and may not be further modified or terminated except in writing signed by the parties.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment No. 1 to the Maintenance Agreement as of the dates indicated below.

OWNER

GTE CALIFORNIA INCORPORATED

APOLLO CABLEVISION, INC.

BY [Signature]
Date: May 3, 1991 *For B.B. Heiler*

BY [Signature]
Date: May 3 1991

Attest:
KENNETH K. OKEL-Assistant Secretary

Attest:

[Signature]
1002/Doc1 (06)

FORM APPROVED

[Signature]
ROBERT N. HERRERA
Date May 6, 1991

EXHIBIT "A"

ROUTINE REPAIR AND MAINTENANCE
OF THE CATV PORTION OF THE SYSTEM

FOR

GTE CALIFORNIA INCORPORATED

PROVIDED BY

APOLLO CABLEVISION, INC.

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